



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,808	02/14/2001	Julian Orbanes	GPH-002A	4076

21323 7590 09/09/2003

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

EXAMINER

LEWIS, ADAM M

ART UNIT	PAPER NUMBER
----------	--------------

2174

DATE MAILED: 09/09/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/784,808

Applicant(s)

ORBANES ET AL.

Examiner

Adam M Lewis

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claim 10 objected to because of the following informalities:

Claim 10: The phrase "equidistant form the identified location" should be changed to – equidistant from the identified location –.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 9-14, and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Driskell ("Driskell", US# 5,596,699).

As per independent claim 1, Driskell describes a method of receiving user input, the method comprising,

receiving user input identifying a location on a graphical user interface (Driskell, col. 2, lines 66-67; col. 3, line 1),

displaying menu options, a first menu option appearing substantially at the identified location, the remaining menu options appearing at locations proximate to the identified location (Driskell, Figures 6 and 7; col. 8, lines 22-32), and

receiving user selection of one of the displayed menu options (Driskell, Figures 6 and 7; col. 8, lines 22-32).

As per claim 2, which is dependent on claim 1, Driskell teaches the method of claim 1, wherein the remaining menu options appear at locations equidistant from the identified location (Driskell, col. 4, lines 14-24).

Dependent claims 14 and 17 are similar to dependent claim 2, and are therefore rejected under similar rationale.

As per claim 3, which is dependent on claim 1, Driskell teaches the method of claim 1, wherein receiving user input identifying a location comprises determining the location of cursor (Inherent in computer systems that use input devices such as mice; Inherent in Driskell, col. 9, lines 7-13).

As per claim 4, which is dependent on claim 1, Driskell teaches the method of claim 1, wherein the remaining menu options appear at regular radial intervals around the identified location (Driskell, col. 4, lines 14-24).

Dependent claim 19 is similar to dependent claim 4, and is therefore rejected under similar rationale.

As per claim 5, which is dependent on claim 1, Driskell teaches the method of claim 1, further comprising,

providing hierarchical levels of menu options (Driskell, col. 9, lines 3-13; col. 42, lines 20-24), and

wherein receiving user selection of at least one of the menu options causes display of menu options at a different hierarchical level (Driskell, col. 9, lines 3-13; col. 42, lines 20-24).

As per claim 6, which is dependent on claim 1, Driskell teaches the method of claim 5, wherein the menu option located substantially at the identified location comprises a menu option that causes display of menu options at a hierarchical level higher than the current level (Driskell, Figures 6 and 7; col. 5, lines 34-36; col. 9, lines 7-12).

As per independent claim 9, Driskell teaches a method of receiving user input, the method comprising,

providing hierarchical levels of menu options(Driskell, col. 9, lines 3-13; col. 42, lines 20-24),

receiving user input identifying a location on a graphical user interface, the user input comprising a location of a cursor(Inherent in computer systems that use input devices such as mice; Inherent in Driskell, col. 9, lines 7-13),

displaying menu options from one hierarchical level, a first menu option appearing substantially at the identified location, the remaining menu options appearing at locations proximate to the identified location and being positioned at regular radial intervals around the identified location, the menu option located substantially at the identified location comprising a menu option that when activated causes a display of menu options at a hierarchical level one level higher than the current level (Driskell, Figures 6 and 7; col. 8, lines 22-34; col. 4, lines 14-24), and

receiving user selection of one of the displayed menu options (Inherent in Driskell, Figures 6 and 7; col. 8, lines 22-34).

As per claim 10, which is dependent on claim 9, Driskell teaches the method of claim 9, wherein the remaining menu options appear at locations equidistant from the identified location (Driskell, col. 4, lines 14-24).

As per claim 11, which is dependent on claim 9, Driskell teaches the method of claim 9, wherein selecting one of said remaining menu options activates a predetermined function (Driskell, Figure 7-A: L1-E; col. 8, lines 52-57).

As per claim 12, which is dependent on claim 9, Driskell teaches the method of claim 9, wherein selecting one of said remaining menu options causes, display of menu options at a hierarchical level one level lower than the current level (Driskell, Figures 6 and 7, col. 8, lines 22-34).

As per claim 13, which is dependent on claim 12, Driskell teaches the method of claim 12, wherein the display of menu options at a hierarchical level one level lower than the level of said selected option comprises the display of said selected option substantially at said identified location, and the display of one or more suboptions of said selected option, said suboptions being located proximate to the identified location (Driskell, Figures 6 and 7; col. 8, lines 22-34).

As per independent claim 16, Driskell teaches a computer program, recorded on a computer-readable medium, for receiving user input, the program including instructions for causing a processor to,

receive user input identifying a location on a graphical user interface (Driskell, col. 2, lines 66-67; col. 3, line 1),

display menu options, a first menu option appearing about the identified location, the remaining menu options appearing at locations proximate to the identified location (Driskell, Figures 6 and 7; col. 8, lines 22-32), and

receive user selection of one of the displayed menu options (Driskell, Figures 6 and 7; col. 8, lines 22-32).

As per claim 18, which is dependent on claim 16, Driskell teaches the computer program of claim 16, wherein the instructions that receive user input identifying a location comprise instructions that identify the location of a cursor (Driskell, col. 2, lines 66-67; col. 3, line 1).

As per claim 20, which is dependent on claim 16, Driskell teaches the computer program of claim 16, further comprising instructions that

provide hierarchical levels of menu options (Driskell, Figures 6 and 7; col. 8, lines 22-32), and

wherein the instructions that receive user selection of at least one of the menu options cause display of different menu options at a different hierarchical level (Driskell, Figures 6 and 7; col. 8, lines 22-32).

As per claim 21, which is dependent on claim 20, Driskell teaches the computer program of claim 20, wherein the menu option located substantially at the identified location comprises a menu option that causes display of menu options at a hierarchical

level one level higher than the current level (Driskell, Figures 6 and 7; col. 8, lines 22-34; col. 4, lines 14-24).

As per claim 22, which is dependent on claim 16, Driskell teaches the computer program of claim 16, further comprising instructions that select menu options to present (Driskell, Figure 7-B: L2-B).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 8, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell in view of Padawer et. al. ("Padawer", US# 5,220,675).

As per claims 7, which is dependent on claim 1, Driskell teaches the method of claim 1, but does not teach the method further comprising enabling a user to select menu options to present. Padawer teaches users having the ability to add, edit, delete, or rearrange menu items (Padawer, col. 4, lines 8-12). These user-edited menus can be viewed by navigating through the menus to the edited menu. It would be obvious to one skilled in the art at the time of invention to incorporate the user-edited menus of Padawer into the menu system of Driskell because, as noted in Padawer, user-edited menus provide a high degree of flexibility as well as provide a method and system for combining features of a wide variety of utilities (Padawer, col. 3, lines 14-15).

As per claim 8, which is dependent on claim 7, Driskell teaches the method of claim 1, but does not teach the method further comprising automatically selecting menu options to present based at least in part on an application context.

Padawer teaches displaying fixed menu commands as well as a menu portion for user defined menu items (Padawer, col. 3, lines 50-60). It would be obvious to one skilled in the art at the time of invention to incorporate the user-edited menus of Padawer into the menu system of Driskell because, as noted in Padawer, user-edited menus provide a high degree of flexibility as well as provide a method and system for combining features of a wide variety of utilities (Padawer, col. 3, lines 14-15).

Dependent claims 15 and 23 are similar to dependent claim 8, and are therefore rejected under similar rationale.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ezekiel (US #5,625,783) teaches an automated system and method for dynamic menu construction in a graphical user interface.

Bernstein (US #5,204,947) teaches application independent (open) hypermedia enablement services.

Kurtenbach (US #5,689,667 A) teaches methods and system of controlling menus with radial and linear portions.

Vayda et. al. (US #5,745,717 A) teaches a graphical menu providing simultaneous multiple command selection.

Kilmer et. al. (US #5,874,954 A) teaches a centricity-based interface and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam M Lewis whose telephone number is 703-305-0720. The examiner can normally be reached on M-F 7:00-4:30, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

al

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100